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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Nicole Boyce, State
Parole Board

CSC Docket No. 2014-2484

Classification Appeal

ISSUED: FEB - 6 2015 (WR)

Nicole Boyce, represented by William O'Brien, CWA Local 1039, appeals the attached decision of the Division of Classification and Personnel Management (CPM) that her position with the State Parole Board is properly classified as Supervisor of Accounts. Ms. Boyce seeks an Administrative Analyst 1, Fiscal Management classification in this proceeding.

By way of background, in *In the Matter of Nicole Boyce*, (CSC, decided September 19, 2013), the Civil Service Commission (Commission) determined that Ms. Boyce was not eligible for the promotional examination for Administrative Analyst 1, Fiscal Management, a position to which Ms. Boyce was provisionally appointed, effective June 16, 2012, and ordered CPM to review Ms. Boyce's position. A telephone interview was conducted, and all relevant documentation was reviewed. Ms. Boyce's position is located in the State Parole Board, Office of Fiscal and Administrative Services and reports to Charles Maciejunes, Supervising Management Improvement Specialist. The position supervises a Technical Assistant, Contract Administration and a Training Assistant. As described in the attached determination, CPM found that based on the primary duties of Ms. Boyce's position and the general nature and scope of the functions performed by a Supervisor of Accounts, her title is properly classified as a Supervisor of Accounts, effective January 11, 2014. Specifically, it found that the preponderance of her duties concerned processing accounting system forms and vouchers; supervising accounts payable records; initiating correspondence and communication with vendors, and ensuring timely and efficient processing.

In her April 4, 2014 appeal to the Commission, Ms. Boyce initially requests reconsideration of the Commission's decision in upholding her ineligibility for the Administrative Analyst 1, Fiscal Management (PS2955I) examination. She states without elaboration that there are special circumstances for reconsideration and the decision contained factual errors. She also notes that she had only become recently aware of the Commission's decision.

Regarding her classification appeal, Ms. Boyce asserts that the appointing authority is completely at fault in this matter, as it assigns her duties. Thus she argues that she should not be penalized for the appointing authority's error. Ms. Boyce also states that her "demotion" to Supervisor of Accounts is unwarranted in light of her job performance. Additionally, she claims that the appointing authority's letter offering her the Administrative Analyst 1, Fiscal Management position noted that the offer was contingent on her passing the required examination. It did not say that she had to first qualify for the exam. Nevertheless, Ms. Boyce claims that she meets the eligibility requirements for Administrative Analyst 1, Fiscal Management, as she possesses the required education and meets the work duties. She asserts that along with the Deputy Director, she is responsible for the highest level of fiscal programs and primarily performs all of the critical fiscal management functions. In this regard, Ms. Boyce lists her duties and compares them favorably to those of an Administrative Analyst 1, Fiscal Management. While Ms. Boyce recognizes that the duties she performed may have been out-of-title, she argues that her performance of out-of-title duties was accepted when she was promoted from Senior Clerk Typist to Technical Assistant 3 because of a need in her unit. Ms. Boyce contends that similar facts exist in the present matter, and therefore her out-of-title duties should similarly be accepted in the instant matter. In this regard, Ms. Boyce claims that if she is not classified as an Administrative Analyst 1, Fiscal Management, her unit will be in "a dire predicament" in terms of its overall performance. Ms. Boyce states that her unit is small and currently lacks a Chief Financial Officer (CFO). Moreover, Ms. Boyce indicates that she assumed the duties of a retired Administrative Analyst 1, Accounting. Accordingly she claims that the appointing authority does not have anybody else to perform these duties. Ms. Boyce also contends that CPM failed to explain why the Supervisor of Accounts is the most appropriate title for her position. She asserts that that title is not the most appropriate one because there is no educational requirement whereas she has a Bachelor's degree. Further, she claims that she is not an accountant, does not function like one, and does not have the background of one. Moreover, Ms. Boyce notes that she previously worked under a Supervisor of Accounts and is clearly not performing those duties. Rather, because her job function falls squarely into the fiscal area of State government, she proposes classifying her position as a Senior Fiscal Analyst. Alternatively, she requests that she be permitted to take the examination for Administrative Analyst 1, Fiscal Management. It is noted that the appointing authority supports her appeal.

Additionally, Ms. Boyce claims that there is no salary overpayment in the present matter because she was performing Administrative Analyst, Fiscal Management duties. She states that nothing in the classification review process mentioned the possibility of an overpayment and she was reasonably unaware that the payment of her salary was in error, as the overpayment was a result of an administrative error. She notes that the appointing authority thought she was qualified for the Administrative Analyst 1 title. Thus, she argues that she is being penalized for handing in her resume and accepting a job. Moreover, she claims that there is no legal basis to deduct her salary. In the alternative, Ms. Boyce requests a waiver of her salary overpayment and claims that she will suffer "devastating financial, psychological, and economic effects and hardships" if the salary overpayment is recouped. She also argues that reducing her salary will demoralize and demotivate her to work. She contends that she runs a deficit each month, is on a "bare-bones budget" and does not take vacations or go on shopping sprees. In support of this request, she submits a chart detailing her budget for the month of May 2014.¹ It is noted that the appointing authority indicates that the overpayment amount is \$5,790.40.

CONCLUSION

Initially, Ms. Boyce requests reconsideration of the Commission's decision in *In the Matter of Nicole Boyce*, finding her ineligible for the subject examination. However, N.J.A.C. 4A:2-1.6(a) provides that requests for reconsideration must be made within 45 days of receipt of a decision. In the instant matter, Ms. Boyce's request for reconsideration regarding her eligibility for the subject examination was dated 208 days after the Commission's decision. Ms. Boyce states that as of April 2014, she had only become recently aware of the Commission's decision. She further contends, without further elaboration, that special circumstances exist to grant her request and the decision contained factual errors regarding her work duties. Due to the untimeliness of Ms. Boyce's request and her failure to specify both the alleged factual errors in the decision and the special circumstances that warrant the granting of her request, her request for reconsideration is denied. Accordingly, Ms. Boyce's contentions that she is eligible for, and should be permitted to take, the Administrative Analyst 1, Fiscal Management (PS2955I) examination will not be addressed.

In making classification determinations, emphasis is placed on the definition section of the job specification to distinguish one class of positions from another. The definition portion of a job specification is a brief statement of the kind and level of work being performed in a title series and is relied on to distinguish one class

¹ Ms. Boyce lists \$1,145.08 in "Monthly Net Income" and \$3,926 in monthly expenses. It is not clear if the \$1,145.08 was her total household income for that month.

from another. The outcome of position classification is not to provide a career path to the incumbent, but rather is to ensure that the position is classified in the most appropriate title available within the State's classification plan.² How well or efficiently an employee does his or her job, length of service, and qualifications have no effect on the classification of a position currently occupied, as *positions*, not employees, are classified.

The definition section of the job specification for Supervisor of Accounts states:

Under direction of a supervisory official, supervises a unit of clerical employees engaged in maintenance of a system of accounts; does other related duties as required.

The definition section of the job specification for Administrative Analyst 1, Fiscal Management states:

Under direction of an executive official in the fiscal management areas in a state department or agency, coordinates and supervises work activities of Administrative Analysts, Fiscal Management of lower grade in planning and conducting management, statistical, organizational, fiscal, performance, and budget analyses of department and/or division programs, and where alternative programs are needed makes evaluations and recommendations as required; does other related duties as required.

The definition section of the job specification for Senior Fiscal Analyst states:

Under direction of a supervisor, performs the work involved in the analysis of fiscal activities including budget preparation, review and maintenance; does other related duties.

Initially, it is noted that Ms. Boyce does not dispute the duties CPM determined she performs. Rather, she contends that those duties are commensurate with the title Administrative Analyst 1, Fiscal Management rather than the title of Supervisor of Accounts. Unlike an Administrative Analyst 1, Fiscal Management, Ms. Boyce does not perform varied organizational, financial, or budgetary analysis of department or division programs. Similarly, a review of Ms. Boyce's duties establishes that she is not responsible for the analysis of fiscal activities. Based on the information submitted for review, Ms. Boyce clearly performs the duties of a Supervisor of Accounts, which include processing accounting system forms and vouchers, supervision of accounts payable records,

² See *In the Matter of Patricia Lightsey* (MSB, decided June 8, 2005), *aff'd on reconsideration* (MSB, decided November 22, 2005).

initiating correspondence and communication with vendors and ensuring timely and efficient processing.

Regarding Ms. Boyce's assertion that the title of Senior Fiscal Analyst is a more appropriate title because it includes "fiscal" in the title rather than "accounts" and she is not an accountant, a review of the job specification reveals that an individual in the title of Senior Fiscal Analyst performs the work involved in the analysis of fiscal activities including budget preparation review and maintenance. However, the record does not indicate that Ms. Boyce is responsible for the analysis of fiscal activities including budget preparation. Rather, as discussed above, the primary responsibility of her position concerns processing accounting system forms and vouchers, supervising accounts payable records, initiating correspondence, and communicating with vendors.

Ms. Boyce's argument that her unit will be in "a dire predicament" if her position is not classified as an Administrative Analyst 1, Fiscal Management is not persuasive. As indicated above, there is no dispute in the instant matter regarding the duties that Ms. Boyce performed at the time of her classification review. Rather, the dispute concerns the job title under which she performed those duties. There is no indication in the record that the appointing authority's fiscal unit will perform differently should Ms. Boyce's position be classified as a Supervisor of Accounts rather than an Administrative Analyst 1, Fiscal Management. Moreover, with respect to her contention that she assumed the duties of an Administrative Analyst 1, Accounting who retired, it is emphasized that a classification appeal cannot be based solely on a comparison to the duties of another position, especially if that position is misclassified. *See In the Matter of Dennis Stover*, Docket No. A-5011-96T1 (App. Div. October 3, 1998). *See also, In the Matter of Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995). Additionally, the fact that some of an employee's assigned duties may compare favorably with some examples of work found in a given job specification, e.g., Senior Fiscal Analyst, is not determinative for classification purposes, since, by nature, examples of work are utilized for illustrative purposes only. Moreover, it is not uncommon for an employee to perform some duties which are above or below the level of work which is ordinarily performed. For purposes of determining the appropriate level within a given class, and overall job specification purposes, the definition portion of the job specification is appropriately utilized. Accordingly, a thorough review of the information presented in the record establishes that Ms. Boyce's position is properly classified as Supervisor of Accounts, and she has not presented a sufficient basis to establish that her position is improperly classified.

Additionally, there is a salary overpayment issue. In this regard, Ms. Boyce has been overpaid for the duties she performed from June 16, 2012, the date she was provisionally appointed to Administrative Analyst 1, Fiscal Management, until

she was placed in the title of Supervisor of Accounts.³ Ms. Boyce asserts that there was no salary overpayment because she was performing the duties of an Administrative Analyst 1, Fiscal Management during the relevant period. However, CPM determined that the duties she performed were not the duties of an Administrative Analyst 1, Fiscal Management, but were rather the duties of a Supervisor of Accounts. Moreover, Ms. Boyce does not dispute the duties CPM determined that she performs.

Regarding Ms. Boyce's claim that there is no statute or regulation that authorizes the Commission to deduct her wages, statutory authority for repayment of salary overpayment is given in *N.J.S.A. 11A:3-7*. *N.J.A.C. 4A:3-4.21* Salary overpayments: State service, provides as follows:

- (a) The [Commission] may waive, in whole or in part, the repayment of an erroneous salary overpayment, or may adjust the repayment schedule based on consideration of the following factors:
 1. The circumstances and amount of the overpayment were such that an employee could reasonably have been unaware of the error;
 2. The overpayment resulted from a specific administrative error, and was not due to mere delay in processing a change in pay status;
 3. The terms of the repayment schedule would result in economic hardship to the employee.

See also, N.J.S.A. 11A:3-7(c). It is well settled that all of the factors outlined in *N.J.A.C. 4A:3-4.21* must be satisfied to successfully obtain a waiver of the repayment obligation. In *In the Matter of Thomas Micai v. Commissioner of Department of Personnel, State of New Jersey*, Docket No. A-5053-91T5 (App. Div., July 15, 1993), the Superior Court of New Jersey, Appellate Division, affirmed the Commissioner of Personnel's decision to deny a request for waiver of repayment of salary overpayment, finding that, although the appellant had established that the overpayment was the result of an administrative error, he failed to show that enforcement of the repayment would create economic hardship.

With respect to the aforementioned factors, Ms. Boyce states that any repayment ordered would "result in devastating financial, psychological, and economic effects and hardships" on her and her family. However, Ms. Boyce

³ Agency records indicate she was provisionally appointing, pending promotional examination procedures, to the title of Supervisor of Accounts, effective January 11, 2014.

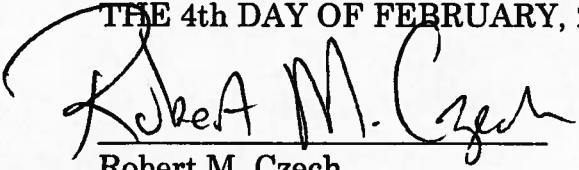
remains employed and she has not provided any substantive documentation in support of her financial situation which would indicate that repayment would result in financial hardship. See *In the Matter of Ruth Samonski* (Commissioner of Personnel, decided July 5, 2005) (Waiver of repayment of the salary overpayment in the amount of \$20,568.40 for improperly receiving sick leave injury benefits denied, where the appellant failed to provide any information to establish that the repayment would cause an economic hardship). Compare, *In the Matter of Betty Munoz* (Commissioner of Personnel, decided March 16, 2000) (Waiver of repayment of a salary overpayment that represented 3.9% of the gross salary of an employee who was a single parent with two children granted). Additionally, the repayment amount in this matter is \$5,0790.40, which is not a large sum given Ms. Boyce's salary, currently \$48,971.33 per year. Most importantly, since no repayment schedule has been submitted, Ms. Boyce cannot demonstrate that the amount she would be required to pay per bi-weekly pay period would create a hardship. However, the appointing authority and Ms. Boyce are encouraged to set a reasonable repayment schedule for her to repay the \$5,0790.40.

ORDER

Therefore, it is ordered that this appeal be denied and the position of Nicole Boyce is properly classified as Supervisor of Accounts. It is further ordered that the request for a waiver of the repayment by Ms. Boyce be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 4th DAY OF FEBRUARY, 2015


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Attachment

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